

# **Chapter 4.16 – Solicitors**

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## **4.16.010 Definitions.**

The following terms shall have the following meanings:

“Political” means on behalf of a political party or candidate or for the purpose of influencing legislation or personal belief.

“Religious” means on behalf of an established religion which means a particular system of faith and worship recognized and practiced by a particular church, sect or denomination.

### **“Solicitation”**

(a) Means the act of any person traveling by foot, vehicle or any other type of conveyance who goes on private or public property to:

- (1) Request, either directly or indirectly, money, credit, funds, contributions, personal property or anything of value;
- (2) Take or attempt to take orders for the sale of any goods, wares, merchandise or services of any kind, or description for future delivery or for services to be performed in the future, either in person or by distributing flyers and leaflets;
- (3) Sell and make immediate delivery of any goods, wares, merchandise or services of any kind or description; or
- (4) Communicating or otherwise conveying ideas, views or beliefs or otherwise disseminating oral or written information to a person willing to directly receive such information, provided that such information is of a commercial nature.

(b) Does not mean the following:

- (1) A person communicating or otherwise conveying ideas, views or beliefs or otherwise disseminating oral or written information to a person willing to directly receive such information, provided that such information is of a political, religious or charitable nature;
- (2) A person seeking to influence the personal belief of the occupant of any residence regarding any political or religious matter;
- (3) A person seeking to obtain, from any occupant of any residence, an indication of the occupant's belief in regard to any political or religious matter;
- (4) A person conducting a poll, survey or petition drive in regard to any political matter;
- (5) A person carrying, conveying, delivering or transporting food or beverage products, newspapers or other goods to regular customers on established routes or to the premises of any person who had previously ordered such products or goods and is entitled to receive the same;
- (6) A person whose business is to solicit dealers or permanent merchants in the usual course of business; or
- (7) Any person exempted from this Chapter's requirement under Ind. Code 8-1-34-30.

"Solicitor" means a person, whether a resident of the City or not, engaged in solicitation.

#### **4.16.020 Operations generally.**

It is unlawful to operate as a solicitor in the City except in accordance with the provisions of this Chapter.

#### **4.16.030 Business License—Required.**

(a) It is unlawful to operate as a solicitor in the City without first having secured a license to do so as provided by this Chapter.

(b) It is not necessary to obtain a temporary use permit under Chapter 20 of the Bloomington Municipal Code in order to obtain a license to operate as a solicitor under this Chapter.

#### **4.16.040 Business License—Application.**

Any person desiring a license under this Chapter shall submit a fully completed application to the City Controller at least fourteen days prior to the proposed date of operating as a solicitor. The application must set forth or have attached the following information as specified:

(a) The applicant's name, current physical address, telephone number, email address and date of birth;

(b) The name, current physical address, and telephone number of the person, firm, limited liability company, corporation or organization which the applicant is employed by or represents, and the length of time of such employment or representation;

(c) If the applicant is employed by or represents a firm, limited liability company or corporation, the applicant shall provide the name and current physical address of all members of the firm or limited liability company, or all officers of the corporation, as the case may be;

(d) If the applicant is employed by or represents a corporation or limited liability company then there shall be stated on the application the date of incorporation or organization, the state of incorporation or organization, and if the applicant is a corporation or limited liability company formed in a state other than the State of Indiana, the date on which such corporation or limited liability company qualified to transact business as a foreign corporation or foreign limited liability company in the State of Indiana;

(e) The type of products or services to be sold and the hours of the day the applicant plans to conduct business;

(f) The place or places where said business may be conducted, and a written statement, if applicable, from the owner of any private property wherein the business may be conducted authorizing the applicant to use the property;

(g) The duration of the license being sought;

(h) A statement as to whether or not a license, under the provisions of this Chapter, or any other similar ordinance of the City of Bloomington or any other county, town or municipality, has been revoked, together with the details thereof; and

(i) The designation of a resident of the State of Indiana as a registered agent for purposes of receiving notices from the City of Bloomington or other service of process, as a result of doing business in the City of Bloomington

#### **4.16.050 Business License—Prerequisites.**

An application for a license under this Chapter shall not be considered unless proof of the following are provided with the application:

(a) All applicable permits required by the Monroe County Health Department, including but not limited to a Food Service Establishment License or a Certified Food Handler Certificate;

(b) Proof of registration as a business with the Indiana Secretary of State;

(c) Proof of an Employer Identification Number;

(d) If business is to be conducted on City property, a resolution from the City's Board of Public Works;

(e) If business is to be conducted on or in property owned or managed by the City of Bloomington Parks Department, including the B-Line Trail, a letter of approval from said Department;

(f) Proof of insurance in accordance with the amounts established by this Chapter.

#### **4.16.060 Business License—Duration and Fee.**

(a) Each applicant shall pay a license fee in accordance with the schedule set forth below (all licenses are for a consecutive period of time):

- (1) One Day License: \$25.00
- (2) Three Day License: \$30.00
- (3) Seven Day License: \$50.00
- (4) Thirty Day License: \$75.00
- (5) Three Month License: \$150.00
- (6) Six Month License: \$200.00
- (7) One Year License: \$350.00.

(b) The following listed organizations and/or entities while required to obtain a license under this Chapter are exempt from having to pay any fees, so long as the proceeds thereof are to be used exclusively for religious, charitable, educational or scientific purposes:

- (1) Churches;
- (2) Schools;
- (3) Benevolent organizations;
- (4) Fraternal organizations; and
- (5) Other similarly situated organizations.

(c) Pursuant to Ind. Code 25-25-2-1, while all honorably discharged veterans are required to obtain a license under this Chapter they are exempt from having to pay any fees.

#### **4.16.070 Application Fee—Refund on Denial.**

In the event the license is granted, the application fee shall be retained by the City as the first annual fee. In the event of a denial of the license \$20.00 of the application fee shall be retained to defray the administrative expense incurred in investigating and processing the application, and the remainder, if any, shall be refunded to the applicant.

#### **4.12.080 Effect of Cessation of Business.**

No deductions shall be allowed from the fee for a license issued pursuant to this Chapter for any part of the term of which the licensee does not engage in such business.

#### **4.12.090 Business License—Insurance and Indemnity.**

(a) Each applicant for a license shall provide a certificate of liability insurance to the City Controller upon a form approved by the Corporation Counsel of the City of Bloomington, insuring the applicant, and naming the City of Bloomington as co-insured, against the following liabilities and in the following amounts relative to such activity:

- (1) Personal injury: \$100,000.00 per occurrence and \$300,000.00 in the aggregate; and

- (2) Property damage: \$25,000.00 per occurrence and \$50,000.00 in the aggregate.

(b) Each applicant shall provide a document approved by the Corporation Counsel for the City of Bloomington, in which the applicant agrees to indemnify and hold harmless the City of Bloomington for losses or expenses arising out of the operation of his/her business.

#### **4.16.100 Business License—Issuance.**

(a) The Controller shall within fourteen days of receipt of the completed application issue the business license to the applicant, provided there is compliance with all provisions of this Chapter.

(b) If the Controller fails to issue the license within fourteen days of completion of the application, the applicant may appeal the denial to the City's Board of Public Works. The Board of Public Works shall, within the next thirty days, determine whether the applicant has complied with all provisions of this Chapter, and if so, shall authorize the Controller to issue the license if there is such compliance.

#### **4.16.110 Business License—Transferability.**

A license issued pursuant to this Chapter shall not be transferable to another licensee.

#### **4.16.120 Business License—Identification.**

(a) All licenses issued by the Controller under this Chapter shall be shown to any person who requests to see the license.

(b) Failure to display or exhibit a license in accordance with this Section may be grounds for suspension or revocation of said license.

#### **4.16.130 Location Restrictions.**

(a) No solicitor shall operate in any parking lot, parking space, or parking facility owned, leased or managed by the City of Bloomington unless approval has been given by the City's Board of Public Works.

(b) No solicitor shall operate in a street, street median strip or alleyway.

(c) No solicitor shall operate within a one block radius of a Special Event unless prior approval has been granted by either the operator of the Special Event or the City's Board of Public Works.

(d) No solicitor shall be located in a manner which would significantly impede or prevent the use of any City of Bloomington property, or which would endanger the safety or property of the public.

(e) No solicitor shall operate in a neighborhood or on property wherein a sign reading "No Solicitation", or something of a similar nature, has been duly erected and displayed.

(f) No solicitor shall conduct business on or in property owned or managed by the City of Bloomington Parks Department, including the B-Line Trail, unless the solicitor has first obtained a letter of approval from said Department

#### **4.16.140 Standards of Conduct.**

All solicitors shall conform to the following standards of conduct:

(a) Solicitors shall conduct themselves at all times in an orderly and lawful manner, and shall not make, or cause to be made, any unreasonable noise of such volume as to be in violation of the City of Bloomington Noise Ordinance as stated in Title 14 of the Bloomington Municipal Code;

(b) A device may not be used which would amplify sounds nor may attention be drawn to the solicitor by an aural means or a light-producing device;

(c) No solicitor shall expose any person to any undue safety or health hazards nor create a public nuisance;

(d) Solicitors shall be required to obey the commands of law enforcement officers or fire officials with respect to activity carried out inside of the City's jurisdiction;

(e) No person shall engage in abusive solicitation. Such abusive activity shall mean to do one or more of the following while soliciting or immediately thereafter:

- (1) Coming closer than three feet to the person solicited unless and until the person solicited indicates that the person wishes to make a purchase or otherwise receive the solicitation;
- (2) Blocking or impeding the passage of the person solicited;
- (3) Repeating the solicitation after the person solicited has indicated an objection to the solicitation;
- (4) Following the person solicited by proceeding behind, ahead or alongside such person after the person has indicated an objection to the solicitation;
- (5) Threatening the person solicited with physical harm by word or gesture;
- (6) Abusing the person solicited with words which are offensive and inherently likely to provide an immediate violent reaction; or
- (7) Touching the solicited person without the solicited person's consent.

(f) It is unlawful for any solicitor to go upon, ring the bell, knock on the door of or attempt to gain admission to the premises of any residence, dwelling or apartment in the City after 8:00 p.m. or earlier than 10:00 a.m., unless such person has been requested or invited by the owner or adult occupant of the premises to be thereupon for such purposes.

(g) No solicitor shall approach any vehicle driving upon, stopped upon, or parked upon any public or private street or alley.

(h) No solicitor shall conduct his/her business from a street, alley, traffic island, or median.

#### **4.16.150 Penalties—Revocation of License.**

(a) Any person, partnership, limited liability company or corporation which violates any provision of this Chapter, shall be subject to the following penalties:

- (1) Soliciting without a license:

First offense	\$250.00
Second offense within any 12-month period	\$500.00
Third offense, or each thereafter, within any 12-month period	\$1,000.00

- (2) Failure to comply with any other provision of this Chapter:

First offense	\$50.00
Second offense within any 12-month period	\$100.00
Third offense, or each thereafter, within any 12-month period	\$200.00

(b) In addition, the Controller's Office shall, after notice and hearing before the City's Board of Public Works, suspend or revoke, by written order, any license issued hereunder if the Board of Public Works finds:

- (1) The licensee has violated any provision of this Chapter or any rule or regulation lawfully made under and within the authority of this Chapter;
- (2) The licensee is operating the pushcart licensed under this Chapter in a manner contrary to State or local code; or
- (3) Any fact or condition exists which, if it had existed at the time of the original application for such license, would have permitted the Controller's Office to refuse originally to issue such license.